

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

DALE SHEARER,

Plaintiff,

v.

MADISON COUNTY, ILLINOIS,

Defendant.

Case No. 09-cv-932-JPG-DGW

MEMORANDUM AND ORDER

This matter comes before the Court on the objection of defendant Madison County, Illinois (Doc. 30) to Magistrate Judge Wilkerson's November 14, 2011, order (Doc. 28) denying its motion for an extension of time to file dispositive motions (Doc. 26). A district court reviewing a magistrate judge's decision on nondispositive issues should modify or set aside that decision if it is clearly erroneous or contrary to law. *See* Fed. R. Civ. P. 72(a); 28 U.S.C. § 636(b)(1)(A). Accordingly, the Court will affirm Magistrate Judge Wilkerson's decision unless his factual findings are clearly erroneous or his legal conclusions are contrary to law. *Id.*

The plaintiff filed this case in November 2009. Three scheduling orders have been issued, each establishing a new dispositive motion deadline (Docs. 8, 17 & 22). Madison County requested another extension of time because it did not receive the transcripts of three November 7, 2011, depositions in time to use them to prepare a motion to satisfy the November 15, 2011, dispositive motion deadline. Madison County apparently did not learn about these witnesses until it deposed the plaintiff on October 17, 2011. Magistrate Judge Wilkerson denied the City's motion without comment.

Madison County has not shown that Magistrate Judge Wilkerson's order was clearly erroneous or contrary to law. By delaying the plaintiff's deposition until the latter part of the

discovery period, it assumed the risk that it would not have time to depose additional witnesses identified in that deposition in time to use those transcripts in a motion that satisfied the dispositive motion deadline. Moreover, it waited until two business days before the dispositive motion deadline to file its motion to extend the deadline when it should have known on October 17, 2011, the day the deposition subpoenas were issued for the November 7, 2011, depositions, that it was unlikely to be able to meet the November 15, 2011, dispositive motion deadline. Madison County has simply failed to show good cause for extending the deadline a third time.

For this reason, the Court **OVERRULES** Madison County's objection (Doc. 30) and **AFFIRMS** Magistrate Judge Wilkerson's order (Doc. 28).

IT IS SO ORDERED.

DATED: November 21, 2011

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE